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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 27

Application Number: 09/251,519
Filing Date: February 17, 1999
Appellant(s): BATHICHE ET AL.

Leanne R. Taveggia
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 31, 2003.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 1-20,22 and 23 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,001,014	OGATA et al	12-1999
6,069,594	BARNES et al	5-2000

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20, 22 and 23 are rejected under 35 U.S.C. 103. This rejection is as follows.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-20,22 and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Ogata et al (US 6,001014) in view of Barnes et al. (US 6,069,594).

As to independent claim 1, Ogata et al disclose a hand held computer input device which prepares a data packet indicative of receiving information of a configuration of a multiple switch (Fig. 5, items 7 and 8) device located on the computer input device and having at least two degrees of motional freedom (col. 7, lines 51-57 and col. 9, lines 24-46). Ogata et al do not disclose physical orientation of the hand held computer input device. Barnes et al disclose an apparatus and method for providing positional and altitude information to a computer. In Fig. 3A, Barnes et al disclose the input device. In Figs. 6A-D, col. 9, lines 16-60, Barnes et al disclose pitch, yaw and roll types of rotation of the input device which is then transmitted to the computer. It would have been obvious to one of ordinary skill in the art that the hand held computer input device of Barnes et al which can be physically manipulated and have those

signals associated with the movements transmitted to the computer be incorporated into that of Ogata et al. Ogata et al also disclose in Fig. 38, col. 21, lines 50-60 a gyroscope. It is know to one skilled in the art that a gyroscope can be used for physical movement, thus it is possible for Ogata et al device to also incorporate physical movement. Hand held computer input devices with different physical manipulations are advantageous as it allows the user to incorporate them during video game playing such as "flying" airplane games.

As to independent claim 16, see claim 1, above.

As to independent claim 20, limitations of claims 1 and 13, and further comprising a first housing portion (Fig. 5), a first extending handle (Fig. 5, item 4), coupled to and extending away from the first housing portion, a second extending handle (Fig. 5, item 5).

As to independent claim 23, limitations of claim 1, and further comprising, Ogata et al do not disclose receiving mode information. Barnes et al disclose receiving mode information (col.8, lines 37-53) and controlling the display device such that an object being displayed on the visual display device assumes a visual orientation corresponding to one of, the physical orientation of the computer input device as indicated by the orientation information and the configuration of the multiple switch device as indicated by the switch information, based on selected mode as shown in col. 9, lines 16-60. It would have been obvious to one of ordinary skill in the art that the hand held computer input device of Barnes et al which can be physically manipulated and have those signals associated with the movements transmitted to the computer be incorporated into that of Ogata et al. Ogata et al also disclose in Fig. 38, col. 21, lines 50-60 a gyroscope. It is know to one skilled in the art that a gyroscope can be used for physical movement, thus it is possible for Ogata et al device to also incorporate physical movement. Hand held computer input devices with different physical manipulations are advantageous as it allows the user to incorporate them during video game playing such as "flying" airplane games.

As to dependent claim 2, see claims 1 and 23, above.

As to dependent claim 3, limitations of claim 2, and further comprising, Ogata et al do not disclose placing orientation indicative of the physical orientation of the computer input device in the orientation field when the selected mode is a first selected mode and placing predetermined orientation data in the second selected mode, the predetermined orientation data corresponding to the configuration of the multiple switch device. Barnes et al disclose placing orientation indicative of the physical orientation of the computer input device in the orientation field when the selected mode is a first selected mode (col. 8, lines 37-53) and placing predetermined orientation data in the second selected mode, the predetermined orientation data corresponding to the configuration of the multiple switch device (col. 8, lines 37-53). It would have been obvious to one of ordinary skill in the art that the hand held computer input device of Barnes et al which can be physically manipulated and have those signals associated with the movements transmitted to the computer be incorporated into that of Ogata et al. Ogata et al also disclose in Fig. 38, col. 21, lines 50-60 a gyroscope. It is know to one skilled in the art that a gyroscope can be used for physical movement, thus it is possible for Ogata et al device to also incorporate physical movement. Hand held computer input devices with different physical manipulations are advantageous as it allows the user to incorporate them during video game playing such as "flying" airplane games.

As to dependent claim 4, limitations of claim 3, and further comprising, Ogata et al do not disclose selecting a predetermined orientation value from a plurality of predetermined orientation values based on the configuration of the multiple switch device. Barnes et al disclose selecting a predetermined orientation value from a plurality of predetermined orientation values based on the configuration of the multiple switch device in col. 9, lines 19-60. It would have been obvious to one of ordinary skill in the art that the hand held computer input device of Barnes et al which can be physically manipulated and have those signals associated with the movements transmitted to the computer be incorporated into that of Ogata et al. Ogata et al also

disclose in Fig. 38, col. 21, lines 50-60 a gyroscope. It is know to one skilled in the art that a gyroscope can be used for physical movement, thus it is possible for Ogata et al device to also incorporate physical movement. Hand held computer input devices with different physical manipulations are advantageous as it allows the user to incorporate them during video game playing such as "flying" airplane games.

As to dependent claim 5, limitations of claim 3, and further comprising, placing predetermined switch configuration data in the multiple switch field when the selected mode is the second selected mode as shown in col. 7, lines 50-60.

As to dependent claim 6, limitations of claim 5, and further comprising, the predetermined switch configuration data corresponds to depression of no switches in the multiple switch device as col. 7, lines 50-60.

As to dependent claims 7, 8 and 9, limitations of claim 2, and further comprising, the step of placing the data in the orientation field and the multiple switch field in the data packet based on the selected mode is performed on the computer input device, or is performed on the computer, or performed on the computer by the input device (col. 7, lines 51-57 and col. 9, lines 24-46). And in Fig. 3A, Barnes et al disclose the input device. In Figs. 6A-D, col. 9, lines 16-60, Barnes et al disclose pitch, yaw and roll types of rotation of the input device which is then transmitted to the computer. It would have been obvious to one of ordinary skill in the art that the hand held computer input device of Barnes et al which can be physically manipulated and have those signals associated with the movements transmitted to the computer be incorporated into that of Ogata et al. Ogata et al also disclose in Fig. 38, col. 21, lines 50-60 a gyroscope. It is know to one skilled in the art that a gyroscope can be used for physical movement, thus it is possible for Ogata et al device to also incorporate physical movement. Hand held computer input devices with different physical manipulations are advantageous as it allows the user to incorporate them during video game playing such as "flying" airplane games.

As to dependent claim 10, see claims 1 and 3, above.

As to dependent claim 11, limitations of claim 10, and further comprising, replacing the orientation information in the orientation field with a predetermined orientation value, when the selected mode is a second selected mode. Barnes et al disclose in col. 8, lines 37-62 where there are two different operational modes. In Fig. 3A, Barnes et al disclose the input device. In Figs. 6A-D, col. 9, lines 16-60, Barnes et al disclose pitch, yaw and roll types of rotation of the input device which is then transmitted to the computer. It would have been obvious to one of ordinary skill in the art that the hand held computer input device of Barnes et al which can be physically manipulated and have those signals associated with the movements transmitted to the computer be incorporated into that of Ogata et al. Ogata et al also disclose in Fig. 38, col. 21, lines 50-60 a gyroscope. It is know to one skilled in the art that a gyroscope can be used for physical movement, thus it is possible for Ogata et al device to also incorporate physical movement. Hand held computer input devices with different physical manipulations are advantageous as it allows the user to incorporate them during video game playing such as "flying" airplane games.

As to dependent claim 12, limitations of claim 11, and further comprising, placing the data in the orientation field and the multiple switch field in the data packet based on the selected mode is preformed on the computer by the input driver by replacing the switch information in the multiple switch field with a predetermined value when the selected mode is the second mode. Barnes et al disclose in col. 8, lines 37-62 where there are two different operational modes. In Fig. 3A, Barnes et al disclose the input device. In Figs. 6A-D, col. 9, lines 16-60, Barnes et al disclose pitch, yaw and roll types of rotation of the input device which is then transmitted to the computer. It would have been obvious to one of ordinary skill in the art that the hand held computer input device of Barnes et al which can be physically manipulated and have those signals associated with the movements transmitted to the computer be incorporated into that of Ogata et al. Ogata et al also disclose in Fig. 38, col. 21, lines 50-60 a gyroscope. It is know to

one skilled in the art that a gyroscope can be used for physical movement, thus it is possible for Ogata et al device to also incorporate physical movement. Hand held computer input devices with different physical manipulations are advantageous as it allows the user to incorporate them during video game playing such as "flying" airplane games.

As to dependent claims 13 and 17, limitations of claims 1 and 16, and further comprising, a rotation field containing rotation information indicative of rotation of a rotatable member. Ogata et al do not disclose a rotation field. Barnes discloses Figs. 6A-D, col. 9, lines 16-60, Barnes et al disclose pitch, yaw and roll types of rotation of the input device which is then transmitted to the computer. It would have been obvious to one of ordinary skill in the art that the hand held computer input device of Barnes et al which can be physically manipulated and have those signals associated with the movements transmitted to the computer be incorporated into that of Ogata et al. Ogata et al also disclose in Fig. 38, col. 21, lines 50-60 a gyroscope. It is know to one skilled in the art that a gyroscope can be used for physical movement, thus it is possible for Ogata et al device to also incorporate physical movement. Hand held computer input devices with different physical manipulations are advantageous as it allows the user to incorporate them during video game playing such as "flying" airplane games.

As to dependent claim 18, see claim 15, above.

As to dependent claim 19, see claims 1, 3, 13 and 16, above.

As to dependent claim 22, see claim 3, above.

As to dependent claim 14, see limitations of claims 1 and 13, above.

As to dependent claim 15, limitations of claim 14, and further comprising, receiving button information indicative of depression of a plurality of buttons on the computer device and placing data in a button field in the data packet based on the button information as shown in col. 7, lines 50-60.

(11) Response to Argument

The following is in response to Appellant's arguments in regards to claims of Group 1. Appellant states in the appeal brief, where the combination of Ogata et al in view of Barnes et al fails to render the group 1 claims obvious. It appears Appellant is suggesting a 35 USC 102 rejection using Ogata is in order. Appellant cited col. 34, lines 37-56, which suggests that the orientation sensors (velocity sensors 155a, 155b, and 155c) transmit control button information based on orientation. However, as to motivation for having Ogata "receiving information indicative of a physical orientation" Barnes provides motivation for having an input device which detects orientation of the device in 3D space, see col. 2, lines 54-col. 3, line 4, and it would have been further obvious to move a cursor or game piece on a display by moving the input device (game controller) in 3D space rather than using up-down/left-right buttons on the game controller.

As to groups 1 and 2, directed for placing later in a data packet that contains both physical orientation and multiple switch information, Ogata et al clearly suggest communicating all data via a data packet. True, as to page 3, line 25 of Appeal Brief, Ogata et al in col. 9, lines 24-26 disclose packet data related to control of the vibrator member (note the similarity of Fig. 5 of Appellant application to Figs. 48 and 49 of Ogata et al).

Appellant further states on page 7 of Appeal Brief, "although Ogata et al discloses a data packet in col. 9, lines 24-46, the data packet is (as discussed in col. 9, lines 18-46) created at the game machine and is mono-directionally transmitted from the game machine to the control module in order to control the vibrator member." Examiner disagrees. In col. 24, Ogata et al discloses data transmitted and received between the game machine and the game controller is transmitted by byte after packetizing into a packet consisting of 5-byte data.

As suggested by Appellant on page 8, second paragraph, and by Ogata et al in col. 34, lines 37-56 if orientation data is transmitted to the computer it would have been obvious to one skilled in the art to packetize the orientation data in keeping with the communication of information of Ogata et al which is packetized. It is inherent that multiple switch will be transmitted to the computer via packets.

With respect to the rejection of groups 2-4 claims, Appellant discloses where the combination of Ogata et al in view of Barnes et al fail to disclose where receiving and placing information is indicative of a selected mode. The limitations of claims of group 2 are set forth in such a way as to be able to broadly interpret the method in which the data is placed with respect to selected mode. Barnes et al discloses in col. 9, where the hand held input device operates in either 2-D or 3-D modes. It is obvious to one of ordinary skill in the art that the placement of data can be determined in any method. Ogata et al describe in col. 9, col. 20-24, different aspects of data transmission, as also described above. With respect to groups 3 and 4, Appellant has submitted similar arguments in regards to selected mode, thus the above response applies.

With respect to the rejection of group 5, Appellant discloses where independent claim 13 includes placing data in an orientation field and placing data in a rotation field in the data packet

based on the orientation information and the rotation information of a rotation member, in which the prior art Ogata et al and Barnes et al fail to disclose the rotation information of a rotation member. The limitations set forth by claim 13 are broadly interpreted to be disclosed by Barnes et al as Barnes et al disclose the rotation of the input device member. With the rotation of the device of Barnes et al, rotation information is sent to the game machine, thus the rotatable member and rotation information is disclosed.

As is disclosed in the above response, each and every limitation set forth in the application is disclosed in the combination of Ogata et al in view of Barnes et al.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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SKK
May 3, 2004

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